

# EXHIBIT D

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1 lawyer magically. I mean, it's just not realistic.

2 One of the things I was thinking about back in the  
3 robing room was I was trying to think of another lawyer who has  
4 as much notoriety now as Mr. Avenatti, and I was having  
5 difficulty coming up with anyone. And there's a reason why  
6 Mr. Avenatti has that notoriety and, in my view, it's necessary  
7 background and it's part of the story because the government is  
8 alleging here that he was positioned in such a way that he  
9 could commit the crime of extortion. He could threaten a  
10 large, multinational company because of his, as the assistant  
11 referred to, his public persona.

12 The problem is his public persona is inextricably  
13 intertwined with his prior representation of Stormy Daniels in  
14 the case against the President. And by the way, I will be  
15 shocked if we don't have lots of people in the jury panel who  
16 are aware of Mr. Avenatti's prior representation of Stormy  
17 Daniels, shocked if there aren't quite a few people that are  
18 going to say they've heard Mr. Avenatti's name in connection  
19 with his prior representation of her.

20 I further anticipate that if those panel members tell  
21 me that they are capable of setting aside his prior  
22 representation of Stormy Daniels and the cases against  
23 President Trump, if they assured me if they can set that aside,  
24 that they will decide the case based solely on the evidence and  
25 that they will be fair, those people are going to wind up on

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1 the jury, I suspect. They might be subject to preemptory  
2 challenge, but it's unlikely I'll excuse them for cause merely  
3 because they're aware that Mr. Avenatti has represented  
4 Ms. Daniels in the past. So that's why I feel it's going to be  
5 extremely difficult to keep it entirely out of the case.

6 Now, I agree with the government that the case is not  
7 about that prior case, and it's not about politics. And I  
8 agree with everything that was said, but I'm not hearing from  
9 Mr. Srebnick that it's his intention to turn this case into  
10 some sort of referendum on the lawsuits that Mr. Avenatti  
11 brought on behalf of Ms. Daniels against the President. And,  
12 obviously, if he were to take steps to do that, I would cut  
13 that off, and I will cut it off quickly, but I don't have any  
14 reason to believe that's what he's going to do.

15 What I would say to you, Mr. Srebnick, and I haven't  
16 seen the text messages; so I'm handicapped in that way --

17 MR. H. SREBNICK: Your Honor, we have them for you on  
18 the screen.

19 THE COURT: Okay. So tell me what I'm looking at.

20 MR. H. SREBNICK: So, your Honor, this has been marked  
21 as the Defense Exhibit F, on the exhibit list, and these were  
22 provided by the government. They have Bates stamps on the  
23 bottom. If you'll see, the one on the screen now, you'll see a  
24 brain stamp on the bottom that is Franklin 0916. Do you see  
25 that, Judge.